

CLARIFYING SECTION 1103 (d) OF TITLE XI (FEDERAL
SHIP MORTGAGE INSURANCE) OF THE MERCHANT
MARINE ACT, 1936, AS AMENDED

JUNE 8, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BONNER, from the Committee on Merchant Marine and Fisheries,
submitted the following

R E P O R T

[To accompany H. R. 11255]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H. R. 11255) to clarify section 1103 (d) of title XI (Federal ship mortgage insurance) of the Merchant Marine Act, 1936, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of this bill is to correct a deficiency in language in Public Law 781, 83d Congress. Public Law 781 authorizes the Secretary of Commerce to insure 90 percent of the unpaid balance of vessel construction mortgages or loans. In the case of "special purpose" vessels certified by the Secretary of Defense to be essential to national defense, the Secretary of Commerce is authorized to insure 100 percent of the unpaid principal of such mortgages or loans. Public Law 781 was designed to facilitate private financing of ship construction by means of Federal ship mortgage insurance.

While section 1103 (a) of the law clearly authorizes 100 percent insurance of principal and interest on mortgages on "special purpose" vessels, section 1103 (d) provides that "the faith of the United States is solemnly pledged to the payment of the interest on, and 90 percentum of each mortgage and loan insured." No correlative reference is contained in the law to a pledge of faith in the case of "special purpose" vessels. Because of this ambiguity, certain financing institutions have been reluctant to make loans on "special purpose" vessels, without additional collateral, so long as any semblance of doubt exists as to the extent of the Government's pledge of faith. This reluctance has not been overcome by a ruling of the Comptroller General stating that the ambiguity "was clearly the result of inad-

vertence," and that the Secretary of Commerce was authorized to effectively insure 100 percent of the principal and interest on mortgages or loans on "special purpose" vessels. The Secretary of the Treasury, in reporting on the bill, expressed the belief that the "pledge of the faith of the United States" is unnecessary, but stated there would be no objection to clarifying legislation. And the Secretary of Commerce reported favorably on the bill, pointing out that it "would conform section 1103 (d) expressly to the Congressional intent."

There was no objection from any source, and the bill is unanimously reported.

The departmental reports are as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, May 23, 1956.

Hon. HERBERT C. BONNER,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your letter of May 18, 1956, enclosing a copy of H. R. 11255, 84th Congress, 2d session, entitled "A bill to clarify section 1103 (d) of title XI (Federal ship mortgage insurance) of the Merchant Marine Act, 1936, as amended" and inviting our views and recommendations thereon.

The provisos in subsection 1103 (a) and 1103 (b) of the Merchant Marine Act, 1936, as amended by Public Law 781, 83d Congress (68 Stat. 1267, 1268), expressly authorize 100 percent insurance on mortgages and loans on "special purpose" vessels. However, subsection 1103 (d) provides:

"(d) The faith of the United States is solemnly pledged to the payment of the interest on and 90 *per centum* of the unpaid balance of the principal amount of each mortgage and loan insured under this title." [Italic supplied.]

H. R. 11255 would add, as of the effective date of Public Law 781, *supra*, a provision to subsection 1103 (d) which would be correlative to the provisos in subsections 1103 (a) and 1103 (b).

The legislative history of the amendments to title XI clearly establishes that the failure to provide a correlative amendment to subsection 1103 (d) when the provisos authorizing 100 percent insurance on mortgages and loans on "special purpose" vessels were added to subsections 1103 (a) and 1103 (b) was the result of inadvertence.

It was upon the basis of the foregoing conclusion that we advised the Administrator, Maritime Administration, by letter of May 1, 1956, copy attached, that he was authorized to insure 100 percent of the principal of and interest on mortgages and loans on "special purpose" vessels. However, we understand that the clarification of the statute by amendatory legislation will facilitate private financing as contemplated by title XI.

Accordingly, we recommend favorable consideration of H. R. 11255.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D. C., May 1, 1956.

The ADMINISTRATOR,
Maritime Administration.

DEAR MR. ADMINISTRATOR: Reference is made to your letter of April 17, 1956, requesting our view as to whether you are authorized to effectively insure 100 percent of the principal of and interest on mortgages and loans in the case of "special purpose" vessels.

The provisos in subsections 1103 (a) and 1103 (b) of the Merchant Marine Act, 1936, as amended by Public Law 781, 83d Congress (68 Stat. 1267, 1268), expressly authorize 100 percent insurance on mortgages and loans on special purpose vessels. However, the question arises by virtue of subsection 1103 (d), which provides—

"(d) The faith of the United States is solemnly pledged to the payment of the interest on and *90 per centum* of the unpaid balance of the principal amount of each mortgage and loan insured under this title." [Italic supplied.]

Your letter refers to various provisions of title XI (Federal ship mortgage insurance), as amended, which are indicative of the objectives of that title, and points out that the pledge of the faith of the United States contained in subsection 1103 (d) is superfluous inasmuch as the authorized issuance of mortgage insurance establishes a valid obligation of the United States. Moreover, as indicated in your letter, the legislative history of the amendments to title XI clearly establishes that the failure to provide a correlative amendment to subsection 1103 (d) when the provisos authorizing 100 percent insurance on special purpose vessels was added to subsections 1103 (a) and 1103 (b) was the result of inadvertence. See Senate Report No. 1804, dated July 14, 1954, to accompany S. 3219, as amended.

A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void, or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error (Sutherland on Statutory Construction, vol. 2, sec. 4704).

Accordingly, inasmuch as the failure to provide a correlative amendment to subsection 1103 (d) was clearly the result of inadvertence, you are authorized under title XI to effectively insure 100 percent of the principal of and interest on mortgages and loans on special purpose vessels.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

THE SECRETARY OF COMMERCE,
Washington, May 23, 1956.

HON. HERBERT C. BONNER,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in reply to your request of May 18, 1956, for the views of this Department with respect to H. R. 11255, a bill to clarify section 1103 (d) of title XI (Federal ship mortgage insurance) of the Merchant Marine Act, 1936, as amended.

Before the enactment of Public Law 781, 83d Congress, title XI of the Merchant Marine Act, 1936, as amended, authorized the Secretary of Commerce to insure against loss 90 percent of the unpaid principal of any ship loan or mortgage eligible for insurance under that title.

Public Law 781, 83d Congress, amended title XI of the 1936 act to authorize, in addition to insurance of 90 percent of the unpaid principal of ship loans and mortgages, the insurance of 100 percent of the unpaid principal of loans and mortgages on special purpose vessels certified by the Secretary of Defense to be essential to the national defense, and the insurance of 100 percent of the interest on all eligible ship loans and mortgages.

Section 1103 (d) of title XI which was added by Public Law 781, 83d Congress, provides that the faith of the United States is solemnly pledged to the payment of the interest on and 90 percent of the unpaid balance of the principal amount of each loan and mortgage insured under this title. This provision was contained in the bill (H. R. 9987) which finally became Public Law 781, when the bill was introduced. The provision authorizing insurance of 100 percent of the unpaid principal of loans and mortgages on special purpose vessels, however, was not contained in the original bill, but was added during congressional consideration of the measure and inadvertently no corollary change was made in section 1103 (d) so as to pledge the faith of the United States to the payment of 100 percent of the unpaid principal of mortgages and loans on special purpose vessels.

The addition of section 1103 (d) to title XI by the original bill (H. R. 9987) was not, in the opinion of the Department, absolutely necessary. Apparently, the purpose of the provision was to show that any insurance contracted for would not be payable solely from the revolving fund created by section 1102 of the act, but would be a general obligation of the United States. This was, in fact, already accomplished by section 1109 of the act which authorizes such appropriations as are necessary to carry out the purposes of the act. The provision, nevertheless, was useful in providing further assurance to financial institutions that any insurance contracted for would be a general obligation of the United States.

The bill, H. R. 11255, would amend section 1103 (d) of the 1936 act expressly to provide, as of the effective date of Public Law 781, 83d Congress, that the faith of the United States is pledged to the payment of 100 percent of the unpaid principal of loans and mortgages on special purpose vessels.

The legislative history of Public Law 781, 83d Congress, shows that Congress intended that the insurance of 100 percent of the unpaid principal of loans and mortgages on special purpose vessels should be a general obligation of the United States, and the Comptroller General has so ruled. The bill would conform section 1103 (d) expressly to the congressional intent, would give further assurance to prospective lenders that all of the insurance on special purpose vessels is a general obligation of the United States, and would, therefore, facilitate the private financing of ship loans and mortgages.

The Department would interpose no objection to enactment of the bill.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

TREASURY DEPARTMENT,
Washington, May 29, 1956.

HON. HERBERT C. BONNER,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H. R. 11255, to clarify section 1103 (d) of title XI (Federal ship mortgage insurance) of the Merchant Marine Act, 1936, as amended.

Section 1103 (a) of the Merchant Marine Act, as amended, authorizes the Secretary of Commerce to insure the interest on and 90 percent of the unpaid balance of the principal of eligible vessel mortgages. Section 1103 (d) of the Merchant Marine Act, as amended, pledges the faith of the United States to the payment of the interest on and 90 percent of the unpaid balance of such insured mortgages. Section 1103 (a) also authorizes the Secretary of Commerce to insure 100 percent of the principal of and the interest on eligible vessel mortgages in the case of special purpose vessels certified by the Secretary of Defense to be essential to the national defense. However, in the latter case, existing law does not pledge the faith of the United States to the payment of such insurance and H. R. 11255 would add a provision to that effect.

While the Department believes that a pledge of the faith of the United States is generally unnecessary in connection with mortgage insurance programs of the Federal Government, the Department would have no objection to H. R. 11255 since it would make the existing pledge provision coextensive with the insurance provided in connection with vessel mortgages.

The Department has been advised by the Bureau of the Budget that there would be no objection to the submission of an identical report on S. 3857, an identical bill.

Very truly yours,

W. RANDOLPH BURGESS,
Acting Secretary of the Treasury.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

MERCHANT MARINE ACT, 1936, AS AMENDED (46 U. S. C. 1273)

TITLE XI—FEDERAL SHIP MORTGAGE INSURANCE

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SEC. 1103. (d) The faith of the United States is solemnly pledged to the payment of the interest on and 90 per centum of the unpaid balance of the principal amount of each mortgage and loan insured under this title, *but in the case of special purpose vessels certified by the Secretary of Defense to be essential to national defense, the faith of the United States is solemnly pledged to the payment of the interest on and 100 per centum of the unpaid balance of the principal amount of each mortgage and loan insured under this title if the insurance contract obligates the United States to pay the interest on and 100 per centum of the unpaid balance of the principal amount of such mortgage or loan.*

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